

# **\$7M verdict against smoke alarm maker over Rotterdam fire**

**The Business Review (Albany) - 2:45 PM EDT Monday**

by Eric Durr

## **The Business Review**

The makers of the First Alert brand smoke detector must pay the survivors of a May 31, 2001 Rotterdam, N.Y., fire more than \$7 million in damages, including \$500,000 in punitive damages, a jury ruled Friday, April 21, in a case heard in the U.S. Court for the Northern District of New York.

John Hackert, and his mother Sheila Hackert were awarded \$7,031,702 by the jury following a three-week trial in Utica. William Hackert, John's father and Sheila's husband, and Christine Hackert, the fourth member of the family, died in the fire, which started when an extension cord overheated.

The case was heard by Judge David Hurd.

The surviving Hackert's sued First Alert and BRK Brands Inc., because the smoke detectors installed in their home failed to go off and alert the family, said James Hacker, whose firm of Hacker & Murphy LLP handled the case.

The family had two of the companies smoke detectors installed in their home and both failed to alert, Hacker said. The detectors at issue were ionization type smoke detectors that sense high temperature, fast moving fires, as opposed to detectors employing photoelectric cells which are better at detecting smoldering fires, like the one which apparently killed William and Christine Hackert, Hacker said.

A photoelectric smoke detector would detect the smoke from a fire 15 minutes earlier than the ionization type, Hacker said.

During the trial the jury heard from witnesses who testified that the company was aware of the shortcomings of the ionization only detector but continued to market the product instead of selling only dual detectors. The dual detectors cost from \$20 to \$25 while the ionization only types sell for \$10 to \$15.

**During discovery his law firm learned of 750 complaints from consumers whose ionization type detectors failed to sound during smoke or fire events, Hacker said.**

"We like to think this is a significant case," Hacker said. "We think it is a story that needed telling."

Hacker said he anticipates that BRK Brands will appeal the ruling and expects the appeal to take at least another year.

Hacker has been working on the case for five years.

"This was the most challenging, the most expensive, the most time consuming case I have handled in 21 years," he said. "I felt it was a story that needed to be told. It was a tragedy that could have been prevented."

The technology to make dual-sensor smoke detectors has been around since 1979 and it is unconscionable for a company to continue to market an inferior product, Hacker said.

Hacker was joined in the lawsuit by James Fetterly and Sally Silk of the firm of Robins Kaplan Miller & Ciresi LLP of Minneapolis, Minn. That firm had more experience in these kinds of cases, Hacker said.

The company was represented by Goldberg & Segalla, a Buffalo firm.

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Attorney warns there are different types of smoke detectors

Updated: 4/24/2006 10:41:01 PM

By: Jola Szubielski

Attorney James Hacker said, "This information is out there, but people don't know."



Hacker said people need to know that there are different types of smoke detectors. And the wrong one could mean everything.

A tragic Rotterdam fire back in May of 2001 left a father and daughter dead.

And the Hackert family says those lives could have been saved if they weren't deceived by their First Alert smoke detectors.

They sued the company that made them, and last week they got 7 million dollars in damages.

The jury in the case found that the BRK company sold First Alert fire detectors that wouldn't sense all fires.

And the attorney for the Hackerts says these smoke detectors are still in many homes - leaving many people in danger.

Hacker said, "People go to the store and buy a smoke detector and think it's going to save them in the event of all fires but if you read the fine print, it says you should have a photoelectric and a dual."

Most smoke detectors on the shelves are ionization detectors, which only sense rapid burning fires. But if you don't have a photoelectric detector, you may not be

alerted to slower burning fires in your home. Some companies know this, but haven't done much about it.

Hacker said, "BRK has known since 1979 that the ionization detector reacts slower in response to a slower electrical type of fire or a cigarette in the couch, in some instances it's 15 minutes other than a photoelectric would sound 15 minutes sooner."

And fifteen minutes could be the difference between life and death.

Colonie Chief Fire Investigator Peter Lattanzio said, "A lot of times in a room once a free burning fire gets going in a typical residential house, say in your living room, we're probably looking at five to seven minutes before you have heavy involvement and flash over in that room, so 15 minutes is a tremendous amount of time."

**Court records show that BRK had more than seven hundred complaints against ionization detectors that they kept in a confidential file.**

**Instead of marketing their dual detectors that used ionization and photoelectric technology, they pushed their less expensive products.**

That lead to the 7 million dollar ruling for the Hackert family.

But BRK issued this statement saying, "We strongly disagree with the jury verdict and will aggressively pursue post-trial remedies. BRK believes its UL certified smoke alarms are the highest quality products manufactured today and, as acknowledged by fire protection and government agencies save thousands of lives every year."

## **Rotterdam Fire Victims Receive Settlement**

April 25, 2006, 09:03 AM

A big win for a Rotterdam family, four years after fire ripped through their home, killing two family members.

A judge has determined a different kind of smoke detector could have made the difference between life and death. On Friday, a U.S. District Court Judge awarded the Hackert Family more than 7 million dollars because First Alert, the company which manufactured the detectors did not properly alert consumers that certain ones can be slow to detect smoldering fires.

Family wins \$7M in smoke detector lawsuit  
Survivors of Rotterdam house fire that killed father, daughter said company sold defective devices

By **MICHELE MORGAN BOLTON**, Staff writer

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First published: Wednesday, April 26, 2006

A federal jury has awarded \$7 million in damages to the survivors of a Rotterdam father and daughter who died after smoke detectors failed to alert them to a raging 2001 house fire.

But the payout will be closer to \$4 million because jurors also found the family partly responsible for the deaths because one of two First Alert devices in the home was found with its battery outside the casing.

William Hackert, 56, and his daughter Christine, 31, died inside their 345 Mariaville Road house on May 31, 2001, just after 4:30 a.m. after a frayed and overheated electrical cord behind the couch caught fire.

Neither of the family's smoke detectors -- located in the dining room and kitchen -- sounded during the blaze.

Shirley Hackert and her son, John, filed a lawsuit against First Alert and BRK Brands in 2003, claiming they negligently manufactured, designed and marketed defective stand-alone ionization smoke detectors.

Trial testimony in U.S. District Court in Utica this month revealed that the company knew that the alarms often didn't go off at all -- depending on the type of fire -- yet sold them anyway, family lawyer James Hacker said.

BRK lawyer James Heller, of Philadelphia, vehemently rejected that contention, noting that an appeal will be aggressively pursued.

"BRK believes its UL-certified smoke alarms are the highest-quality products manufactured today and, as acknowledged by fire protection and government agencies, save thousands of lives every year," Heller said.

During the three-week trial, Hacker also presented evidence that BRK manufactured a better version of the detector in 1979, but because it was more expensive to make, it was never utilized, he said.

**The more effective detectors cost between \$20 and \$25, he said, while the ionization-only detectors sell for between \$10 and \$15. "They testified that research shows people would only pay \$1 more," Hacker said.**

**Instead, more than 45,000 flawed models a day have been manufactured and sold since then, Hacker said. In the meanwhile, more than 750 complaints based on**

**actual fires were marked "confidential," he claimed. Not only were they never fully disclosed to either the National Fire Protection Association or the Consumer Product Safety Commission, but another 600 defective detectors saved from actual fires were destroyed in the 1980s, he said.**

William Hackert worked at General Electric's Corporate Research and Development Center in Niskayuna for 35 years, the last 18 as a device fabricator at the R&D center.

His daughter was a Schenectady County Community College culinary arts student and worked at the Stewart's Shop on Curry Road.

On the day of the fire, Sheila Hackert was awakened by the family's 7-month-old golden retriever.

"Finding thick black smoke in the living room, she got down on her hands and knees and crawled to safety through a side door, while screaming to her family members in the upstairs bedrooms," her lawyer said. "Once outside, she pounded on the house in an effort to alert them before seeking help at a neighbor's house."

John Hackert, now 38, awoke to his mother's screams from outside the house and escaped by jumping through a second-floor window.

Firefighters found William and Christine in their bedrooms, with evidence they tried but failed to get out of the windows. In William Hackert's case, an air conditioner blocked his exit.

"No amount of money will replace the family's loss," Hacker said. "But they are very gratified that the story has been told."

A 10-person federal jury returned the verdict for \$7 million against First Alert Inc. and BRK Brands Inc. in the case before U.S. District Judge David Hurd. That amount included \$500,000 in punitive damages.

However, the verdict sheet indicated that the Hackerts' dining room smoke alarm was powered at the time of the fire, but not the device in the family's kitchen. Therefore, jurors said the companies were only 65 percent liable for damages.